

1
2
3
4
5
6
7 IN THE UNITED STATES DISTRICT COURT
8 FOR THE NORTHERN DISTRICT OF CALIFORNIA
9

10 CARL SKIDMORE,

11
12 Petitioner,

13 v.

14 J. LIZARRAGA,

15 Respondent.
16
17

Case No.: C 14-1231 JSC (PR)

**ORDER OF DISMISSAL; GRANTING
LEAVE TO PROCEED IN FORMA
PAUPERIS**

18
19 Petitioner, a California prisoner proceeding pro se, filed this petition for a writ of
20 habeas corpus under 28 U.S.C. § 2254.¹ The petition states the same claims as an earlier
21 petition recently filed by Petitioner, *Skidmore v. Lizarraga*, No. C 14-0253 JSC (PR). His
22 earlier petition was dismissed without prejudice because in a motion to stay attached to the
23 petition he indicated that he had not exhausted any of his claims. *See Raspberry v. Garcia*,
24 448 F.3d 1150, 1154 (9th Cir. 2006) (district court may not stay petition containing only
25 unexhausted claims). An identical motion for a stay is attached to the instant petition, and it
26 also indicates that none of the claims have been exhausted. (Dkt. 1 at 4-6, 28.) Accordingly,
27

28 ¹ Petitioner has consented to the jurisdiction of a United States Magistrate Judge pursuant to
28 U.S.C. § 636(c). (Dkt. 1 at 8.)

1 the instant petition for a writ of habeas corpus is DISMISSED without prejudice to filing a
2 new petition in this Court after available state judicial remedies are exhausted.

3 Rule 11(a) of the Rules Governing Section 2254 Cases now requires a district court to
4 rule on whether a Petitioner is entitled to a certificate of appealability in the same order in
5 which the petition is decided. Petitioner has failed to make a substantial showing that a
6 reasonable jurist would find this Court's ruling debatable or wrong. *Slack v. McDaniel*, 529
7 U.S. 473, 484 (2000). Consequently, no certificate of appealability is warranted in this case.

8 Leave to proceed in forma pauperis is GRANTED.

9 The Clerk shall enter judgment and close the file.

10 **IT IS SO ORDERED.**

11
12 Dated: March 27, 2014

13 
14 _____
15 JACQUELINE SCOTT CORLEY
16 UNITED STATES MAGISTRATE JUDGE
17
18
19
20
21
22
23
24
25
26
27
28